

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA**

**V.**

**ROGER WALLACH**

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**CRIMINAL NUMBER 17-628-1**

**DEFENDANT’S SENTENCING MEMORANDUM**

Roger Wallach, by and through his attorney, Maranna J. Meehan, Assistant Federal Defender, files this sentencing memorandum to respectfully ask the Court to accept and impose the joint recommendation of 240 months’ incarceration on Counts One through Nine and Count Ten. Specifically, the plea agreement proposed a sentence of 240 months for manufacturing and attempted manufacturing of child pornography in violation of 18 U.S.C. §§2251(a) and (e) (Counts One through Nine), and 240 months to run concurrently on Count Ten, which charges possession of child pornography in violation of 18 U.S.C. §§2252(a)(4)(B) and (b)(2). Although the recommendation is below the low end of the advisory range (See PSR ¶110), the joint recommendation is appropriate for the reasons stated herein and for reasons defense counsel anticipates will be articulated in the government’s submission.

**I. Background**

The facts surrounding Mr. Wallach’s arrest and the offense conduct outlined in paragraphs 16 through 27 of the PSR are largely undisputed. Notably, Mr. Wallach admitted his terrible misconduct to the mother of the two victims, his girlfriend at the time. She then called the police. Mr. Wallach admitted the vast amount of his misconduct to the police when they arrived. Once arrested, he waived his Miranda rights and confessed again. Law enforcement

video recorded two confessions. Mr. Wallach has been demonstrably remorseful. He consented to a search of the devices that were used to make the recordings. He fully accepts responsibility and to that end, accepts that he will serve twenty years in prison.

The Presentence Investigation Report indicates Mr. Wallach falls in criminal history category VI. Arguably, Mr. Wallach's criminal history is somewhat overstated. It should be noted that none of his prior offenses were sexual in nature nor do they bear any resemblance to the conduct in the instant offense. Mr. Wallach is now 39 years old. Two of the prior offenses that accumulated five criminal history points (burglary and criminal trespass) occurred when Mr. Wallach was 19 years old (PSR ¶¶ 68 & 69). Mr. Wallach received two criminal history points for another criminal trespass dating back to 1999. He received three criminal history points for an escape charge involving failing to return after a furlough in 1999 (PSR ¶¶ 70 & 76). During the 1999 to 2004, while incarcerated, Mr. Wallach worked as a cook in the state prison facility (PSR ¶ 103). Mr. Wallach also enjoys painting and drawing.

As noted in the Presentence Investigation Report, Mr. Wallach has a significant and degenerative illness. He suffers from congenital spinal stenosis (PSR ¶ 95). According to Mr. Wallach, he was born with the disease which was not diagnosed until he was 22 years old. As noted in the PSR, Mr. Wallach has been confined to a wheelchair on and off again for the past sixteen years. At various times, he experiences paralysis in one or both of his legs. Since being incarcerated, Mr. Wallach has been confined to his wheelchair and has fallen numerous times while attempting to get from his wheelchair into the bed in his cell. Medical records obtained by counsel undersigned as well as those from the Federal Detention Center confirm this diagnosis

and the numerous complications that have arisen during Mr. Wallach's incarceration, including a reliance on catheters due to a growth on his bladder and increased pain from the disease.<sup>1</sup>

## **II. Recommended Appropriate Sentence**

Both the government and the defense respectfully ask the Court to accept the joint recommendation and impose the sentence recommended by the parties pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C). A sentence of twenty years' incarceration is a significant sentence which will incapacitate Mr. Wallach for many years. This is a very serious offense. To his credit, Mr. Wallach was cooperative with law enforcement. This crime is a significant violation of trust and an invasion of privacy. There is no evidence Mr. Wallach touched either young victim in an inappropriate manner.

The defense agrees with the accuracy of the personal history information outlined in Part C of the Presentence Investigation Report. As noted in the report, Mr. Wallach's mother died when he was just thirteen years old. His relationship with his father has deteriorated since his arrest for this offense. Thus, Mr. Wallach has been largely isolated while in prison and believes that he will remain without family support in the future. As recorded in the medical and psychological records from the Federal Detention Center, Mr. Wallach suffers from anxiety and major depressive disorder.

The sentence proposed by the government and defense will fulfill the goals of sentencing. A sentence of twenty years in prison provides sufficient and just punishment. The sentence is of such magnitude so as to provide specific deterrence to Mr. Wallach and general deterrence to others. This sentence will also protect the public for the foreseeable future. Following his release, Mr. Wallach will be on intense supervision and will be required to register as a sex

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<sup>1</sup> Medical records indicate Mr. Wallach underwent a biopsy of the growth on his bladder on August 22, 2018. Counsel undersigned does not have the results of the biopsy at this time.

offender. Mr. Wallach has been found to be disabled. He does not need additional vocational or educational classes. He is in need of constant medical care including visits with medical specialists from time to time. The jointly proposed sentence will likely accommodate his significant medical needs. Counsel undersigned respectfully urges this Court to recommend a specific designation a federal medical center where Mr. Wallach can receive continued appropriate treatment for his progressive disease.

Mr. Wallach's guilty plea saved the government time and resources. Of more significance, his guilty plea prevented the necessity of these two young victims having to testify or the government presenting the video evidence of the young victims to a jury. Mr. Wallach also waived the majority of any meaningful appellate rights.

For the reasons above, the anticipated reasons in the government's sentencing memorandum and any others the Court finds compelling, the defense respectfully asks the Court to impose a sentence of 240 months' imprisonment.

Respectfully submitted,

/s/ Maranna J. Meehan  
MARANNA J. MEEHAN  
Assistant Federal Defender

**CERTIFICATE OF SERVICE**

I, Maranna J. Meehan, Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, hereby certify that I have electronically filed and served a copy of the Defendant's Sentencing Memorandum, by electronic notification and/or hand delivery to her office, upon Michelle T. Rotella, Assistant United States Attorney, office located at 615 Chestnut Street, Philadelphia, Pennsylvania 19106.

/s/ Maranna J. Meehan  
MARANNA J. MEEHAN  
Assistant Federal Defender

DATE: September 5, 2018